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UNCLAS SECTION 01 OF 02 AMMAN 006508

SIPDIS

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E.O. 12958: N/A

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SUBJECT: JORDAN IPR - TWO STEPS FORWARD, A HALF STEP BACK

REF: A. AMMAN 6435

[B](#). AMMAN 2790

[C](#). AMMAN 2574

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[1](#)1. This is an action request. See para 9.

[1](#)2. (SBU) SUMMARY: Jordan's parliament began debate on the temporary copyright law and FTA-compliant amendments to it in mid-July. Although MPs did not conclude deliberations before adjourning, the chief government proponent of the amended copyright law states that the package will pass with only minor revisions. A cabinet decision in late April to dramatically boost censorship fees came as a surprise to distributors of copyright-protected, imported audiovisual works, who see the resulting increased "price gap" between legal licensed audiovisual items and pirated works as promoting copyright piracy. The Prime Minister was approached by local and international industry representatives in mid-July to reverse the decision, which may not comply with WTO or FTA obligations. The Minister of Trade is now also actively involved in seeking a remedy, but the fix may take weeks. We do not believe the demise of the censorship commission is in the offing, though this would put a quick end to the need to raise revenues. The good news from Jordan is that intellectual property rights (IPR) setbacks are now more likely to be these types of inadvertent secondary problems; the government may not always get it right the first time, but it has shown its commitment to the fundamentals of IPR protections. END SUMMARY.

Copyright Law: FTA-Compliant Amendments Likely to Pass

[1](#)3. (SBU) Jordan's parliament took up the temporary copyright law on July 13, when it was presented to the Legal Committee of the Lower House, along with amendments intended to bring it more closely into compliance with its WIPO and FTA commitments. The amendments track closely with proposals the USG had made late last year (Ref C). (NOTE: The Government had met its goal to approve the FTA-compliant copyright amendments as part of a USAID-sponsored "Conditions Precedent" exercise tied to an AID cash transfer. END NOTE.) National Library Director Mahmoud Talhouni said that the text and amendments had passed smoothly through committee with the exception of Article 36 which specified the grounds upon which his National Library enforcement unit could conduct a search for IPR violations. The current law notes that the library can do so on "suspicion" of a violation. In committee and then in the open parliamentary debate on July 18, a few vocal opponents argued that the library should only act on a "strong suspicion." He said that the government did not object to the change, so long as the government could still determine what constituted a "strong suspicion." Seven of the proposed amendments to the law have passed in parliament in separate votes, said Talhouni, but parliament's summer session was adjourned (Ref A) before it could finish its work on copyright. He said that he expected the remainder of the amendments to pass when parliament resumed work.

[1](#)4. (SBU) The argument on "strong suspicion" is not trivial as it relates to constitutional provisions regarding searches and seizures. As it stands, the copyright law allows the National Library enforcement unit to enter any premises in the country -- not just shops -- and critics (and even some well wishers) wish to check that sweeping power in some rational manner.

Censorship Fees Favor the Pirates Over Legal IPR Works

[1](#)5. (SBU) Murad Bushnaq (protect), licensed Warner Brothers distributor and head of the Jordan Intellectual Property Association (JIPA), has been leading the charge on the issue of censorship fees. Based on an April 26 cabinet change to regulations regarding the independent Audiovisual Media Commission (AMC), the AMC is authorized to charge a per unit fee for every imported audiovisual work entering the country

(including film reels, videotapes, DVDs, video CDs, software, PC games, audio CDs, audio tapes, and floppy discs). While a "per title" fee remains as before (now USD 4.20 per title), there is a steep 15 percent additional fee per unit for visual items, and 10 percent for audio items. If a distributor were to import 500 DVDs, for example, the USD 4.20 per title fee grows to USD 445.20. The AMC is imposing this censorship fee for what it calls its "approval and control" service. (COMMENT: On a strictly fee-for-service basis, one could argue the GOJ should stick to the cost of one review of any given title. END COMMENT.) This fee structure does not apply to locally produced audiovisual materials. (NOTE: Possibly a violation of national treatment obligations under the WTO and/or FTA. END NOTE.) However, local movie theaters and production companies must pay a separate fee equal to three percent of their registered capital initially and one percent annually thereafter. At least one owner of a major production company is threatening to move to Dubai.

16. (SBU) As Bushnaq sees it, the new fees increase the price that consumers will have to pay for AV products, thus increasing the price gap between pirated works and legitimately sold items and pushing more people to buy from the copyright pirates who still set up shop in parts of downtown Amman. When asked about the new censorship fees, National Library Director Mahmoud Talhouni (protect) voiced agreement with the notion that this only increases piracy and adds a burdensome workload for his IPR enforcement unit. The strictly numbers-oriented critics of the new plan, say that the government should support the censorship authority via fines on those who sell unapproved items. More politically astute observers say that, provided censorship is not a major goal of the current government and given that there was a workable, per-title fee system before, reverting to the old fee structure would be the best way forward for now.

17. (SBU) COMMENT: The AMC and its censorship board are unlikely to be closed anytime soon, though this would resolve the need for revenues. Therefore, we need to look at the alternatives. In its zeal to run a tight ship and to tap revenue in the short term to pay for its services, the government is reducing its revenue streams in the long run. Over the long term, this misplaced effort to collect revenue will close down legitimate operators (or drive them to move distributorships in neighboring countries) and reward the pirates and censor-busters who don't pay taxes or fees anyway. END COMMENT.

18. (SBU) Bushnaq told us that an industry group on August 1 called on Deputy Prime Minister and Minister of Industry and Trade Mohammad Halaiga, who indicated that he was opposed to the fee-collection scheme. Bushnaq predicted that, in the end, the new fees would be dropped, but only after another cabinet decision and publication of new regulations in the government gazette, which could take weeks if not a month or two. In the meantime, he believed it was best to keep the pressure on to get the fee decision reversed.

19. (SBU) ACTION REQUEST: Embassy plans to discuss the censorship fees issue with senior GOJ officials, raising our objections. Any additional guidance from the Department would be welcome.

HALE